UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/541
23 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 108

ELIMINATION OF RACISM AND RACIAL DISCRIMINATION

Implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination

Report of the Secretary-General

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96-28774 (E) 110196

I. INTRODUCTION

1. The present report was prepared in pursuance of paragraphs 16 and 17 of General Assembly resolution 49/146 of 23 December 1994 with a view to supplementing the report of the Secretary-General to the Economic and Social Council at its substantive session of 1996 (E/1996/83).

II. IMPLEMENTATION OF THE PROGRAMME OF ACTION WITHIN THE UNITED NATIONS SYSTEM

A. Economic and Social Council

2. At its substantive session of 1996, the Economic and Social Council discussed the implementation of the Programme of Action for the Third Decade to Combat Racism and Racial Discrimination (1993-2003), contained in the annex to General Assembly resolution 49/146, and approved the request of the Commission on Human Rights to the Secretary-General:

(a) To publish and distribute as soon as possible the model legislation on racism and racial discrimination for the guidance of Governments in the enactment of further legislation against racial discrimination;

(b) To include the activities for the Third Decade not implemented in the 1994-1995 biennial programme in the future programme for the Decade and to provide the resources necessary for it;

(c) To ensure that the necessary financial resources are provided for the implementation of the activities for the Third Decade during the biennium 1996-1997.

3. Further, the Council, on the recommendation of the Commission, requested the Secretary-General to take the necessary measures to transmit to the General Assembly at its fifty-first session the results of his consultations with Member States and intergovernmental and non-governmental organizations on the possibility of holding a world conference to combat racism, racial discrimination, xenophobia and related contemporary forms of intolerance.

B. Joint meeting of the Committee on the Elimination of Racial Discrimination and the Subcommission on Prevention of Discrimination and Protection of Minorities

4. A joint meeting of the Bureaux of the Committee on the Elimination of Racial Discrimination and the Subcommission on Prevention of Discrimination and Protection of Minorities was held at Geneva on 15 August 1996.

5. At the meeting, the Committee and the Subcommission agreed to undertake a joint study of article 7 of the International Convention on the Elimination of All Forms of Racial Discrimination. Article 7 of the Convention, the text of which is contained in the annex to General Assembly resolution 2106 (XX) of

21 December 1965, refers to measures which States Parties agree to adopt in the fields of teaching, education, culture and information with a view to combating racial discrimination.

6. Two members of each body were designated to prepare a working paper which would explain the objectives and purpose of the study and would be discussed at the next meeting of the two bodies in August 1997.

C. Seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination

7. In accordance with General Assembly resolution 48/91 of 20 December 1993, which proclaimed the Third Decade to Combat Racism and Racial Discrimination, the United Nations High Commissioner for Human Rights/Centre for Human Rights organized a seminar to assess the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, with particular reference to articles 4 and 6. The seminar was held at Geneva from 9 to 13 September 1996.

8. The agenda of the seminar included the following topics:

(a) Global assessment of the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination;

(b) Implementation of articles 4 and 6 of the Convention: limits and perspectives;

(c) Racist and xenophobic propaganda through computer and electronic networks: measures to be taken at the national and international levels;

(d) Effects of reservations to article 4 on the fight against racism and racial discrimination;

(e) Effectiveness of recourse procedures available to victims of racism and racial discrimination;

(f) Conclusions and recommendations.

9. The United Nations High Commissioner for Human Rights opened the seminar with an introductory statement in which he expressed concern about the resurgence of new forms of racism, racial discrimination and hatred and referred in particular to the injustice suffered by immigrants, refugees and ethnic minorities. He mentioned the burning and destruction of refugee camps, churches, mosques and synagogues and the profanation of cemeteries which had occurred in recent years.

10. The High Commissioner emphasized that ethnic or nationalist hatred has in common with racism the propagation of ideas or theories of the superiority of one race or group of persons over others. He mentioned, specifically, "ethnic

cleansing" as the manifestation of such propaganda and policies and the recent genocide in Rwanda as exemplifying ethnic hatred.

11. The purpose of the seminar was to consider the obstacles to the effective implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and to propose solutions. Referring particularly to article 4, participants discussed the difficulties which prevent the adoption of measures aimed at the elimination of all forms of incitement to racial hatred and discrimination and organizations involved in those activities. Under article 6, they considered the effectiveness of legislation and recourse procedures available to victims of racism and racial discrimination.

12. The main conclusions of the seminar concerned the mass media, the Internet and education. Seminar participants noted that the mass media can contribute to the dissemination of racist ideas and incitement to acts of violence. The seminar therefore encouraged the mass media to promote ideas of tolerance and understanding among different populations, inter alia, on the basis of professional ethics.

13. With regard to the Internet, the seminar suggested that a further seminar be held by the United Nations High Commissioner for Human Rights/Centre for Human Rights in cooperation with Internet service providers to discuss the question of racist information on the Internet.

14. The seminar strongly underlined the importance of education in preventing and eradicating racism and racial discrimination and creating awareness of human rights principles, particularly among young people, and it recommended to States parties that they take measures in that regard.

15. The seminar recognized that it is vital that States Members of the United Nations promote awareness of the threat posed to the stability of national and international order by the propagation of ethnic hatred, ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, and by racist propaganda and activities.

16. The seminar, in line with General recommendation XV (42) on article 4 of the Convention, adopted by the Committee on the Elimination of Racial Discrimination on 17 March 1993, 1/ considered that prohibition of the dissemination of ideas based on racial superiority or racial hatred can be a lawful restriction to the right to freedom of opinion, expression and association as set forth in the Universal Declaration of Human Rights and in article 5 of the Convention.

17. The seminar urged States parties to provide more effective support to and assure greater cooperation with the Committee on the Elimination of Racial Discrimination to enable it to better discharge its functions, and urged them to comply with their reporting duties under the Convention.

18. The seminar commended the non-governmental organizations for their action against racism and racial discrimination and for their continuous support and assistance to the victims of racism and racial discrimination. States were

encouraged to take into account the views of non-governmental organizations when seeking solutions to human rights problems.

III. INFORMATION RECEIVED FROM GOVERNMENTS

GREECE

[Original: English]

[23 May 1996]

19. The Greek Ministry of Justice reported that the Greek Constitution and legislation fully safeguard both equality in the enjoyment of fundamental individual and social rights and freedoms for all citizens irrespective of race, colour, religion and ethnic or national origin (art. 5), and freedom of religious conscience.

20. In addition to the constitutional protection of individual and social rights and freedoms, Greece has signed and sanctioned virtually all international conventions on human rights and on the elimination of racial discrimination, in particular:

- the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights);
- the Convention on the Prevention and Punishment of the Crime of Genocide;
- the International Convention on the Elimination of All Forms of Racial Discrimination;
- the European Social Charter.

21. Those international conventions constitute internal law as of the time they are sanctioned, are applicable ex officio by the courts and by all public services and have increased validity pursuant to paragraph 1 of article 28 of the Constitution, which stipulates that: "The generally acknowledged rules of international law, as well as international conventions as of the time they are sanctioned by law and become operative according to the conditions therein, shall be an integral part of domestic Greek law and shall prevail over any contrary provisions of the law. The rules of international law and international conventions shall be applicable to aliens only under the condition of reciprocity."

22. Consequently, all persons falling within the jurisdiction of the Greek courts, whether they are Greeks or foreigners, are protected by these provisions of both domestic and international law and may seek judicial redress before the appropriate judicial authorities in case of violation of these provisions.

23. In case of violation of these provisions by State organs in the course of the exercise of their duties, both the State organs and the State itself are

held accountable. State organs shall be subject to disciplinary responsibility, criminal liability not to be excluded under the provisions in force. Civil liability is borne in principle by the State. The application of the provisions concerning civil liability of the State does not depend on the existence of culpability (malice or negligence) of the organ that has committed the unlawful and damaging act, omission or material action.

24. Further, at the level of common legislation, article 4 of the Civil Code stipulates that the alien shall enjoy the same civil rights as the national, while in article 192 of the Penal Code, the crime of "incitement of citizens to intolerance" is provided for, according to which whoever publicly by any means causes or incites citizens to commit acts of violence upon each other and to discord among them and in that way disturbs the common peace shall be punished by imprisonment for not more than two years, unless a more severe punishment is imposed by another provision. The protection accorded by the provisions of this article shall be further extended to racial groups or groups of citizens associated with each other by common beliefs or views, beyond religious or political ones.

25. Law 1975 of 1991 has regulated the issues of entry-exit, stay, work, expulsion of foreigners and the procedure relating to the recognition of refugees. The provisions of this law are within the framework of respect for the international obligations assumed by Greece.

26. It should also be mentioned that Greece participated in the joint action programme of the European Union concerning racism and xenophobia.

27. Finally, the Greek Ministry of Justice reported that Greece is at the disposal of the Special Rapporteur of the Commission on Human Rights for cooperation in matters relating to contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

LUXEMBOURG

[Original: French]

[30 May 1996]

28. The Government of Luxembourg reported that numerous motions voted on in the Chamber of Deputies in recent years show that parliamentarians react at the slightest warning of violence or racial, ethnic, anti-Semitic or xenophobic harassment that might jeopardize good relations between nationals of Luxembourg and foreigners.

29. The foremost example of this attitude was the adoption of a framework law on the integration of foreigners in Luxembourg, promulgated on 27 July 1993. This law contains:

(a) A penal component, prohibiting any racial, ethnic or religious discrimination against an individual or community and strengthening the

penalties to be handed down on conviction for racist offences by adding deprivation of civil rights for 5 to 10 years;

(b) A social component which, in addition to arrangements for reception, training, information and psychosocial guidance, lays down regulations for the approval and financing of temporary accommodation such as shelters and reception centres;

(c) An institutional component, introducing a network of structures for decision-making, consultation and coordination, involving the Government, through the inter-ministerial committee coordinating policy relating to foreigners and the Aliens' Department; the communes, through the communal consultative commissions for foreigners; and society at large, together with the Government, through the National Council for Foreigners.

30. The National Council for Foreigners was elected in July 1995 and officially inaugurated on 18 September 1995. It has been consulted by the legislature, inter alia, as part of the procedure for adopting the bill on forms of participation in municipal elections by non-Luxembourg nationals of European Union countries and in connection with the bill on the procedure for examining requests for asylum.

31. After ratifying the International Convention on the Elimination of All Forms of Racial Discrimination, the Government took legislative measures to improve implementation of the Convention at the national level.

32. In 1980 two new articles, articles 454 and 455, were added to the Penal Code to lay down punishment for various types of racist practices. Article 454 penalizes refusal to offer a service to a person or community for racial reasons, discrimination against a person or community in the offering of a service and the publicizing of an intention to practice such discrimination. Article 455 penalizes incitement to discriminatory acts or racial hatred or violence and membership in an organization that practises incitement to discriminatory acts or racial hatred or violence.

33. The prison terms laid down in articles 454 and 455 of the Penal Code have been strengthened by a new article, 456, introduced by article 4 of the Act of 27 July 1993 "concerning the integration of foreigners in the Grand Duchy of Luxembourg and social welfare for foreigners", which deprives persons convicted of any of the racist offences laid down in the Penal Code of their civil rights for 5 to 10 years.

34. A special rule formerly existed for non-profit-making associations; article 26 of the Act of 21 April 1928 on non-profit-making associations and State-approved establishments stipulated that if three fifths of an association's members were not of Luxembourg nationality, the association could not obtain legal personality with regard to third persons without a dispensation from the Government on approval by the Council of State. A law dated 4 March 1994 repealed this provision, which was perceived as discriminatory.

35. Since the March 1994 amendment to the law on non-profit-making associations, there have no longer been any limitations on foreigners of all

nationalities using their constitutional rights to form associations and express their opinions as far as existing legislation permits.

36. The use of languages (the Luxembourg language for oral communication, French and German for written communication) and the traditional methods for learning to read and write (based on German) are a definite scholastic handicap for a number of young foreigners.

37. In order to cope with foreign pupils' difficulties in learning German, provision is made for external differentiation. To overcome the risk of segregation that approach involves, the school authorities have also organized opportunities for internal differentiation and made appropriate instruments available to teachers.

38. Comprehensive courses in the mother tongue (Portuguese, Italian) have also been established for foreign pupils. Arrangements are made for such courses in places where there are a sufficient number of pupils and an explicit demand on the part of parents who have been duly informed of the advantages of this system.

39. Whether they are used in teaching languages, ethnic issues or religion, programmes and textbooks contain a large number of teaching blocks and texts dealing with the problems of discrimination, racism and xenophobia, aimed at fostering tolerance.

40. An important component of the penalization of racism and xenophobia is the preparation of the police force for this task. Appropriate basic and refresher training should enable police officers better to identify offences, handle intercommunity tensions and avoid errors.

41. The new police and gendarmerie schools attach great importance to psychological training and to raising students' awareness of human rights problems. Refresher training for the police force, in particular the examination for advancement, also includes courses on the anti-xenophobia legislation and how to deal with foreigners.

42. In 1992 the Government granted 2.5 million Luxembourg francs to the International League Against Racism and Anti-Semitism, an organization under the high patronage of the Crown Prince, who allocated the money for an extensive poster campaign against racism and xenophobia.

43. Similar campaigns were organized in 1995 as part of a youth campaign against racism, initiated by the Council of Europe and various organizations working on behalf of foreigners. Some of the posters calling for tolerance and vigilance against racism were distributed virtually nationwide.

KUWAIT

[Original: Arabic]

[23 August 1996]

44. In its reply to a note of 15 March 1996 from the Secretary-General, the Government of the State of Kuwait once again welcomed resolution 50/136 concerning the Third Decade to Combat Racism and Racial Discrimination, which was adopted by the General Assembly on 21 December 1995.

45. With regard to paragraph 3 of that resolution, the State of Kuwait wishes to reaffirm its full cooperation with the Special Rapporteur of the Commission on Human Rights on contemporary forms of racism, racial discrimination, xenophobia and related intolerance.

46. Kuwait was one of the first States to ratify the International Convention on the Elimination of All Forms of Racial Discrimination, which was adopted in 1965. One form of the State of Kuwait's cooperation consists of its eagerness to provide the Committee on the Elimination of Racial Discrimination, established under the terms of the Convention, with Kuwait's periodic reports on implementation of the provisions of the Convention. Its twelfth periodic report, submitted to the Committee in 1993, was the most recent.

47. It should be noted that, although Kuwait has not acceded to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, under the labour legislation in force workers residing in Kuwaiti territory enjoy full legal protection and their legal and financial rights are guaranteed.

48. Kuwait has taken a number of legislative and practical measures on numerous issues, such as questions concerning nationality, persons residing in the country illegally, women's rights and domestic servants.

49. Decree No. 58 of 1996 provided for the establishment of an executive committee on persons residing in the country illegally, which was duly formed under the chairmanship of the Minister of the Interior and is responsible, inter alia, for taking executive measures to regulate the status of illegal residents in accordance with the general directives, principles, guidelines, criteria and decisions adopted by the Council of Ministers in this connection, with due regard for the requirements of the public interest and the regulations in force. Shaikh Ali al-Sabah, the Minister of the Interior, announced that the Executive Committee would complete its work during the next four months.

50. It is noteworthy that Kuwaiti women are on an equal footing with men in the enjoyment of the rights guaranteed to men in the Constitution, including the right to education and work. Kuwaiti women enjoy free access to various employment opportunities and, according to the statistics, constitute about 30 per cent of the Kuwaiti labour force.

51. The State has shown concern for domestic servants, for whom it has endeavoured to ensure a decent life. To this end, the State has taken a number

of measures to provide legal protection for domestic servants by, for example, establishing a domestic labour offices directorate in the Ministry of the Interior aimed at regulating the activities of offices that recruit domestic servants and providing guarantees to ensure that domestic servants enjoy their rights during and after their period of employment.

52. At the international level, the State of Kuwait has diligently endeavoured to respect the international conventions concerning human rights, particularly those relating to the elimination of racial discrimination, such as the International Convention on the Elimination of All Forms of Racial Discrimination and the International Convention on the Suppression and Punishment of the Crime of Apartheid.

PERU

[Original: Spanish]

[24 May 1996]

53. The Congress of the Republic of Peru proposed an agenda item concerning efforts to combat racial discrimination against other people.

54. The Congress of the Republic decided:

(1) To reiterate the firm intention of the representatives of the nation to condemn and combat all types of practices involving discrimination on the grounds of race, religion or nationality or on any other grounds;

(2) To renew its firm commitment to remember the suffering of the victims of those practices now living in the country and to guarantee them the same rights, and the same respect for their enriching cultures, as those recognized for other fellow citizens.

Notes

1/ See Official Records of the General Assembly, Forty-eighth Session, Supplement No. 18 (A/48/18), sect. VIII B.

UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/51/542
23 October 1996
ENGLISH
ORIGINAL: ENGLISH AND FRENCH

Fifty-first session
Agenda item 110 (b)

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Implementation of the Declaration on the Elimination of All Forms of Religious Intolerance and of Discrimination Based on Religion or Belief

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the interim report on the elimination of all forms of religious intolerance, prepared by Mr. Abdelfattah Amor, Special Rapporteur of the Commission on Human Rights, in accordance with General Assembly resolution 50/183 of 22 December 1995.

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I. INTRODUCTION

1. At its forty-second session, the Commission on Human Rights decided, in resolution 1986/20 of 10 March 1986, to appoint for one year a special rapporteur to examine incidents and governmental action in all parts of the world inconsistent with the provisions of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and to recommend remedial measures for such situations.

2. In accordance with the terms of that resolution, the Special Rapporteur submitted his first report to the Commission at its forty-third session (E/CN.4/1987/35). His mandate was extended for one year by resolution 1987/15 of 4 March 1987, adopted at the same session of the Commission.

3. From 1988 onwards, the Special Rapporteur submitted yearly reports to the Commission (E/CN.4/1988/45 and Add.1; E/CN.4/1989/44; E/CN.4/1990/46; E/CN.4/1991/56; E/CN.4/1992/52; E/CN.4/1993/62 and Add.1 and Corr.1). In its resolutions 1988/55, 1990/27 and 1992/17, the Commission twice decided to extend the Special Rapporteur's mandate for two years, and then for three years until 1995.

4. After the resignation for Mr. Angelo Vidal d'Almeida Ribeiro, the Chairman of the Commission appointed Mr. Abdelfattah Amor as Special Rapporteur. The latter submitted his reports (E/CN.4/1994/79; E/CN.4/1995/91 and Add.1; E/CN.4/1996/95 and Add.1-2) to the Commission on Human Rights at its fiftieth, fifty-first and fifty-second sessions. By its resolution 1995/23 of 24 February 1995, the Commission on Human Rights decided to extend the Special Rapporteur's mandate for three years.

5. Pursuant to General Assembly resolution 49/188 of 23 December 1994, the Special Rapporteur submitted an interim report to the General Assembly at its fiftieth session (A/50/440).

6. This report is submitted pursuant to General Assembly resolution 50/183 of 22 December 1995. The Special Rapporteur has examined in situ visits and their follow-up, the development of a culture of tolerance and the status of communications since the fifty-second session of the Commission on Human Rights.

II. IMPORTANCE OF IN SITU VISITS AND THEIR FOLLOW-UP

7. The Special Rapporteur attaches considerable importance to in situ visits and their follow-up.

8. He has therefore sought to increase the effectiveness of his mandate by making several requests for visits, as well as by making actual visits in the field on his own initiative or at the invitation of the Governments concerned.

9. Starting in 1994, the Special Rapporteur made a visit to China in November 1994 on the initiative of the People's Republic of China (E/CN.4/1995/91, paras. 109 to 127). In June 1995, he visited Pakistan at the

invitation of the Government of the Islamic Republic of Pakistan (E/CN.4/1996/95/Add.1). In December 1995, he travelled to the Islamic Republic of Iran at the invitation of the Iranian Government (E/CN.4/1996/95/Add.2).

10. In June 1996, the Special Rapporteur visited Greece at the invitation of the Greek Government, and in September 1996, he visited the Sudan at the invitation of the Sudanese Government and pursuant to General Assembly resolution 50/197 of 22 December 1995 and Commission on Human Rights resolution 1996/73 of 23 April 1996.

11. In December 1996, the Special Rapporteur expects to make a visit to India which has been postponed several times by the Indian authorities for scheduling reasons.

12. Lastly, the Special Rapporteur will travel to Australia in January 1997 at the invitation of the Australian Government and pursuant to paragraphs 14 and 15 of General Assembly resolution 50/183 1/ and Commission on Human Rights resolution 1996/73.

13. The Special Rapporteur considers it essential to make visits, firstly, to gather views and observations on any allegations of incidents and governmental action inconsistent with the provisions of the 1981 Declaration and, where appropriate, recommend remedial measures and, secondly, to analyse and publicize the positive experiences and initiatives of States.

14. In 1995, the Special Rapporteur expressed the desire to visit Viet Nam and Turkey. The Vietnamese authorities replied by letter that they were considering the Special Rapporteur's request, and their final response is awaited. In the case of Turkey, the Special Rapporteur has unfortunately received no written reply to his letters, although there have been informal consultations with the responsible authorities this year.

15. In 1996, the Special Rapporteur expressed the desire to visit Germany. The German authorities responded positively and proposed that the Special Rapporteur come in December 1996 or January 1997. For scheduling reasons, the Special Rapporteur has requested that this visit be postponed until after April 1997.

16. Requests for visits were also sent to the Governments of Indonesia and Mauritius. The Special Rapporteur has yet to receive a response.

17. The Special Rapporteur strongly encourages all States to invite him to visit their countries in order to strengthen understanding and mutual cooperation, in the interest of promoting tolerance and eliminating discrimination based on religion or belief.

18. Following up past visits is another important element in the fulfilment of his mandate.

19. Accordingly, in 1996, the Special Rapporteur set in motion procedures for following up his visits to China, Pakistan and the Islamic Republic of Iran. Letters were sent to their respective Permanent Missions asking for comments and for any information on measures taken or envisaged by the authorities concerned

to implement the recommendations made by the Special Rapporteur in his reports on his visits and reproduced in table form (see annex I). The Special Rapporteur received a reply from the Chinese authorities (see annex II), for which he expresses his gratitude. He also received the cooperation of the Iranian authorities in the form of consultations in Geneva and is awaiting comments and information from them in reply to his letter. Lastly, the Special Rapporteur noted the cooperative attitude of the Pakistani authorities at the latest session of the Commission on Human Rights and is hoping for a reply to his follow-up letter.

20. The Special Rapporteur is thus counting on the cooperation of all States in order to be able not only to make in situ visits but also and above all to follow up the visits already made.

III. DEVELOPMENT OF A CULTURE OF TOLERANCE

21. The Special Rapporteur considers the development of a culture of tolerance as a basic priority for the implementation of a bona fide policy of preventing intolerance and discrimination based on religion or belief.

22. As the Special Rapporteur explained in his previous reports to the General Assembly and to the Commission on Human Rights, education can make a decisive contribution to the internalization of values based on human rights and to the emergence, at both the individual and group levels, of attitudes and behaviours reflecting tolerance and non-discrimination, thus constituting an element in the dissemination of a human rights culture. As an essential component of the educational system, schools can provide fertile ground for achieving lasting progress in the promotion of tolerance and non-discrimination with regard to religion and belief. Accordingly, the Special Rapporteur conducted a survey, by means of a questionnaire addressed to States, on problems relating to freedom of religion and belief from the standpoint of the curricula and textbooks of primary or elementary and secondary education institutions. The results of such a survey could facilitate the formulation of an international educational strategy to combat all forms of intolerance and of discrimination based on religion or belief, a strategy that could centre on the definition and implementation of a common minimum programme to foster tolerance and non-discrimination.

23. The Special Rapporteur has received replies from the following 78 States: Albania, Algeria, Andorra, Argentina, Armenia, Austria, Bahrain, Belarus, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Cyprus, Denmark, Djibouti, Ecuador, Egypt, France, Germany, Guatemala, Holy See, Honduras, India, Indonesia, Iraq, Ireland, Israel, Italy, Kyrgyzstan, Latvia, Lesotho, Liechtenstein, Luxembourg, Mali, Marshall Islands, Mauritius, Mexico, Morocco, Namibia, Nauru, Netherlands, New Zealand, Nicaragua, Niger, Norway, Oman, Pakistan, Paraguay, Philippines, Portugal, Republic of Korea, Romania, Saint Lucia, San Marino, Senegal, Singapore, Slovakia, Spain, Sweden, Switzerland, Thailand, the former Yugoslav Republic of Macedonia, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Venezuela, Viet Nam, Yugoslavia and Zambia.

24. Recalling Commission on Human Rights resolution 1994/18 encouraging him to examine the contribution that education can make to the more effective promotion of religious tolerance, and Commission resolutions 1995/23 and 1996/23, as well as General Assembly resolution 50/183 stressing the importance of education in ensuring tolerance of religion and belief, the Special Rapporteur invites all other States to reply to the questionnaire addressed to them, in order to give proper scope to the results of this international survey. Once again, because of the insufficient resources allocated to the Special Rapporteur's mandate and despite the repeated pledges made by the Administration, it has not been possible to begin the sorting and analysis of replies that is necessary for the formulation of a draft international strategy and that will have to be undertaken as soon as possible.

IV. STATUS OF COMMUNICATIONS SINCE THE FIFTY-SECOND SESSION OF THE COMMISSION ON HUMAN RIGHTS

25. This report on the status of communications and replies concerns communications sent since the fifty-second session of the Commission on Human Rights, the replies or absence of replies from the States concerned and late replies. 2/

26. Because of drastic budget cuts, the Special Rapporteur has been unable to publish these communications and the replies from States, contrary to the practice followed since the establishment of his mandate. This constraint is highly detrimental to the paramount importance of information and to its educational function and ultimately constitutes a form of information censorship that seriously undermines the Special Rapporteur's mandate. Accordingly, the Special Rapporteur has analysed the information and can provide anyone with copies of the communications and replies available at the Centre for Human Rights in Geneva.

27. Since the fifty-second session of the Commission on Human Rights, the Special Rapporteur has sent communications to 35 States: Albania, Armenia, Belarus, Bhutan, Bolivia, Brunei Darussalam, Bulgaria, Chad, China, Croatia, Cyprus, Egypt, Eritrea, Georgia, Indonesia, Israel, Japan, Kuwait, Lao People's Democratic Republic, Malaysia, Maldives, Mexico, Morocco, Nepal, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Singapore, Somalia, Tajikistan, Ukraine, United Kingdom, Viet Nam and Yemen.

28. As to urgent appeals, Egypt was sent a second such appeal concerning Professor Nasr Abu Zeid of Cairo University, who was tried on 13 June 1995 by a court for his writings on interpretations of the Koran deemed anti-Islamic by Islamist plaintiffs. Professor Abu Zeid was allegedly declared an apostate by the court and required to divorce his wife (see E/CN.4/1996/95). The Special Rapporteur sent a first urgent appeal on 22 June 1995 and a reminder on 13 September 1995, and, on 19 February 1996, received a reply from the Egyptian authorities indicating that a final judgement had yet to be handed down in the case, that the case did not affect Professor Abu Zeid's professional status, that no decision to confiscate or ban his works had been taken and that his safety was assured. Moreover, Act No. 3 of 1996 had made the institution of legal proceedings on religious grounds the sole prerogative of the government

procurator, in order to prevent any abuses aimed at the defamation or intimidation of citizens. On 9 August 1996, the Special Rapporteur sent a second urgent appeal after the Court of Cassation took a decision which confirmed the order declaring Professor Abu Zeid an apostate and requiring him to separate from his wife. On 22 August 1996, the Egyptian authorities drew attention to the development of their legislation (as exemplified by the aforementioned Act No. 3 and by the Act of 21 May 1996 making the admissibility of a lawsuit contingent on the concept of personal and direct interest) and to the need to respect the independence of the judiciary.

29. It should be noted that other cases involving allegations in the form of complaints will be examined later, inter alia, during in situ visits.

30. Based on the analysis of the communications, the following is a very general classification of the religious communities against which violations have allegedly taken place:

(a) Christianity: Albania, Armenia, Bulgaria, China, Georgia, Indonesia, Kuwait, Lao People's Democratic Republic, Mexico, Morocco, Nepal, Romania, Saudi Arabia, Somalia, Viet Nam, Yemen;

(b) Islam: Chad, Egypt, Saudi Arabia, Tajikistan, United Kingdom, Yemen;

(c) Buddhism: China, Russian Federation, Viet Nam;

(d) Hinduism: Yemen;

(e) Judaism: Belarus;

(f) Other religions, religious groups and religious communities:

(i) Baha'is: Armenia, Indonesia;

(ii) Jehovah's Witnesses: Armenia, Bulgaria, Cyprus, Eritrea, Indonesia, Singapore;

(iii) Hare Krishna: Armenia;

(iv) Al Arqam: Malaysia;

(v) Darul Arqam: Indonesia;

(vi) Mormons: Ukraine;

(g) All religions and religious groups except the official or State religion: Belarus, Bhutan, Bolivia, Brunei Darussalam, Israel, Maldives.

31. In analysing the communications by topic, the Special Rapporteur divided them into six categories of violations.

32. The first category concerns violations of the principle of non-discrimination in religion and belief. It involves allegations of discriminatory policies and/or legislation and regulations in regard to religion and belief, such as those against Christians and Shiites in Saudi Arabia; against non-Muslims in Brunei Darussalam and Maldives; against Christians in the Lao People's Democratic Republic; and against Christians and Muslims in Israel. In Eritrea, the Jehovah's Witnesses are also alleged to have suffered discrimination for expressing their religious beliefs. In addition, Bulgaria's alleged refusal to grant official recognition to religious groups such as the Bulgarian Evangelical Alliance, most Christian missions, independent churches and theological institutes is a violation of the principle of non-discrimination. The same is true of bans on specific religious communities, such as the Jehovah's Witnesses, the Baha'is and Darul Arqam in Indonesia; the Al Arqam group in Malaysia; and the Jehovah's Witnesses and the Unification Church in Singapore. The Special Rapporteur sent a communication to the United Kingdom authorities concerning the publication of newspaper articles conveying a negative and discriminatory image of Muslims. Violations of the principle of non-discrimination are also found indirectly in the five other categories of violations.

33. The second category concerns violations of the principle of tolerance in the area of religion and belief and reflects the Special Rapporteur's concern about religious extremism. Such extremism may threaten an entire society (Yemen), certain categories of individuals such as artists (Chad) or teachers (Egypt), or certain religious minorities (Mexico and Somalia). It is important to note that religious extremism acts as a cancer in any religious group, whatever the denomination, and that it affects the members of that group just as much as those of other religious groups.

34. The third category concerns violations of freedom of thought, conscience, and religion or belief. The question of conscientious objection is raised directly through allegations of prosecution, loss of citizenship rights (Eritrea) and/or imprisonment for refusing to perform military service (Cyprus, Croatia, Russian Federation, Singapore). Other allegations raise the problem of the absence of legal recognition of the right of conscientious objection (Eritrea, Singapore) and, notably, the absence of alternative service (Russian Federation) or even of legal provisions recognizing the concept of conscientious objection and providing for unarmed military service, an omission at variance with international law (Cyprus). Some allegations refer to an official campaign to force believers to renounce their faith (Lao People's Democratic Republic). The freedom to change one's religion is also being violated, as shown by allegations of prohibitions on converting to another religion (Bhutan, Maldives) of prosecution (Kuwait) or under threat of ill-treatment (Mexico).

35. The fourth category concerns violations of the right to manifest one's religion or belief. It covers allegations of control of religious activities by the authorities (Armenia, Japan) which may take the form of restrictions on, or even the prohibition of, public manifestations (China, Maldives, Romania) or private manifestations (China, Saudi Arabia), of religious beliefs and practices by certain religious groups, certain categories of persons - notably foreigners (Belarus, Ukraine) and certain professional bodies such as the army (banning of religious services other than those of the official religion in Bolivia).

Often, a ban on proselytizing by certain religious communities is the subject of special legislation (Armenia, Bhutan, Brunei Darussalam, Republic of Moldova) and may entail prison sentences (Morocco, Nepal).

36. The fifth category concerns violations of the freedom to dispose of religious property. The communications sent raise the question of the restitution of goods and properties to religious communities (Albania, Belarus). Some allegations concern restrictions on certain religious groups' access to places of worship (Israel) which may also lead to the closing of those places (Bulgaria, China, Lao People's Democratic Republic). Bureaucratic obstacles to the acquisition of property by certain religious communities have also been reported in Indonesia and Romania. Lastly, places of worship seem to be the target of very serious violations, especially arson (Indonesia), desecration (Yemen) and destruction (China).

37. The sixth category concerns violations of the right to life, physical integrity and health of persons (clergy and believers). The Special Rapporteur has received reports of many cases of threats (Chad, Yemen), ill-treatment, arrests and detention (Armenia, China, Cyprus, Georgia, Lao People's Democratic Republic, Malaysia, Morocco, Saudi Arabia, Singapore, Viet Nam) and even murders (Mexico, Somalia, Tajikistan, Yemen). Such violations also appear in the religious extremism category.

38. With regard to States' replies to communications other than urgent appeals, the deadline has not expired for 21 States: Armenia, Belarus, Bhutan, Brunei Darussalam, China, Croatia, Cyprus, Eritrea, Indonesia, Israel, Japan, Malaysia, Maldives, Nepal, Republic of Moldova, Russian Federation, Singapore, Somalia, Ukraine, Viet Nam and Yemen.

39. Of the 13 States for which the deadline has expired (Albania, Bolivia, Bulgaria, Chad, Georgia, Kuwait, Lao People's Democratic Republic, Mexico, Morocco, Romania, Saudi Arabia, Tajikistan and United Kingdom), 5 have replied: Kuwait, Lao People's Democratic Republic, Mexico, Morocco and Romania.

40. With reference to the content of replies, Kuwait provided a general response basically referring to its positive law and stating that judicial cases are examined in accordance with the laws of the country.

41. The Lao People's Democratic Republic provided information on its legislation in the area of tolerance and non-discrimination with regard to religion or belief and denied reports of an official campaign against Christians. It did, however, emphasize that some Christians and non-governmental organizations had used religion for political ends, in violation of the laws in force, and were trying to convert people to Christianity in exchange for material assistance and exemption from military service and from State taxes. Those responsible for such disturbances of public order and social stability are subject to prosecution, irrespective of their religion.

42. In its reply concerning the detention and subsequent hospitalization of a Muslim who had converted to Christianity and been found guilty of evangelism, Morocco stated that he had left the hospital at Inezgane on 3 June 1996.

43. Mexico provided detailed information and documentation on State initiatives and action to promote reconciliation and respect for the religious freedom of the Chamula and Catholic evangelical religious minorities.

44. Romania disputed the allegations of discrimination against the Romanian Evangelical Alliance, especially as regards the procedures for approving construction permits for places of worship. Moreover, it claimed that the two "Voice of Gospel" radio stations had received authorization from the National Audio-visual Council to broadcast, but on another frequency. As for the restitution of church property taken over by the State in 1948, the authorities outlined State legislation and policy in that area, which sought to identify the most appropriate measures for preserving the current social usefulness of the property in question without creating privileges for certain religions to the detriment of others.

45. On the subject of replies to communications sent within the context of the report to the fifty-second session of the Commission on Human Rights, the Special Rapporteur has received written replies from the following States: Austria, Belgium, China, Estonia, Germany, Japan, Maldives, Pakistan, Saudi Arabia, Slovenia and Ukraine. The content of those replies will be reflected in the next report to the Commission on Human Rights.

46. The Islamic Republic of Iran and Turkey also sent communications to the Special Rapporteur, for information.

V. CONCLUSIONS AND RECOMMENDATIONS

47. Based on his experience in the daily performance of his mandate and his visits in situ, the Special Rapporteur notes that no religion is completely safe from attack and that no State or category of States, or religion or religious group or community, has a monopoly on intolerance.

48. It is a fact that freedom of religion does not seem to have won over the minds of all men and women. Each religion tends to believe that it is sole guardian of the truth and that it has a duty to make everyone bear witness to that truth. That does not always contribute to tolerance among religions. Moreover, each religion may be tempted to fight what it may consider to be deviance within its own ranks or around it. That does not always contribute to tolerance within religions, especially tolerance of religious minorities. Religious freedom is really threatened and even jeopardized when it serves as a cover or an alibi for criminal acts which are often difficult to confront.

49. Such considerations lead the Special Rapporteur to express his grave concern at the problem of sects. In 1996, an increasing number of cases involving criminal acts - including murders - directly linked to groups identified as sects came to light in many countries. The Special Rapporteur, while sympathizing with the legitimate concerns expressed in various State sectors, whether Governments, parliaments or non-governmental victims' organizations, points out that the debate about sects and the campaigns against them are far too impassioned. Since many questions and misunderstandings surround the definitions and content of the terminologies of sects, new

religious movements and even formal religion and since in international practice confusion reigns and States may have diametrically opposed attitudes to the same group, raising it to formal religious status or pejoratively classifying it as a sect, the Special Rapporteur feels that an international high-level governmental conference should be held to study and decide upon a common approach to sects and religions that respects human rights. He stresses that identifying solutions will require great tolerance in order for compromises to be found that reconcile the necessary freedom of religion with the equally necessary preservation of integration in the national group, as well as equal respect for the law. The Special Rapporteur also recommends that the Subcommission authorize a study of the phenomenon of sects and religious freedom.

50. Moreover, the fact is that religious extremism is not yet in retreat and seems set to continue to pose a threat, sometimes to entire regions. The major religions are no strangers to extremism and are sometimes exposed to these terrorist manifestations, which spare neither Governments nor the governed. It is vital to combat this religious extremism by taking action against both its causes and its effects and by getting States to define a minimum set of common rules of conduct and behaviour with regard to it.

51. On a different level, it is of fundamental importance that places of worship should be reserved for religious, non-political uses, that the legal system governing political parties should be defined in such a way as to avoid political variables impinging on religious constants, and that schools should be protected from all ideological, political or partisan indoctrination. It is not possible to overemphasize the contribution that schools, and education in general, can make to transmitting the values associated with tolerance and freedom.

52. From this point of view, the questionnaire on religious education in primary and secondary schools could be the starting point of a process to establish certain minimum common values and principles which might serve as a foundation for a common programme to foster tolerance and non-discrimination. For this reason, the Special Rapporteur calls on all States to become involved by replying to the questionnaire, thereby showing their commitment to a culture of tolerance.

53. The Special Rapporteur also notes, on the basis of numerous communications, that the fundamental right of conscientious objection is being denied or questioned in many States.

54. The Special Rapporteur is therefore anxious to remind States of Commission on Human Rights resolution 1989/59 of 8 March 1989, which has been reaffirmed on several occasions, in which the Commission recognizes "the right of everyone to have conscientious objections to military service as a legitimate exercise of the right to freedom of thought, conscience and religion as laid down in article 18 of the Universal Declaration of Human Rights as well as article 18 of the International Covenant on Civil and Political Rights", and recommends to States "with a system of compulsory military service, where such provision has not already been made, that they introduce for conscientious objectors various forms of alternative service" which "should be in principle of a non-combatant or civilian character, in the public interest and not of a punitive nature".

55. In order to help achieve greater respect for and knowledge of the rights linked to religious freedom, as well as the principles of tolerance and non-discrimination with regard to religion and belief, the Special Rapporteur reiterates his recommendations for the implementation of specific programmes of advisory services and technical assistance (see E/CN.4/1995/91). A note from the relevant services of the Centre for Human Rights on the implementation of such programmes is strongly recommended for the next session of the Commission on Human Rights.

56. Lastly, in the context of setting up a documentation centre in the Centre for Human Rights at Geneva, the Special Rapporteur recommends that a department on religious freedom and human rights should be set up, with the aim of increasing the amount of information received and collected on the religious situation throughout the international community and establishing the necessary databases for more in-depth analysis and study in the area of religious freedom.

57. The Special Rapporteur wishes to express his gratitude to States for their cooperation and for the opportunities that they have provided for fruitful dialogue. He particularly appreciated the efforts made by those Governments which tried to shed some light on the allegations, submitted to them and which initiated or responded positively to in situ visits. The replies supplied in this way by Governments and their cooperation with regard to visits are valuable tools which allow the Special Rapporteur to go on to form an authoritative opinion on the situation in a given country with respect to religious freedom. The Special Rapporteur is also grateful to those States which have cooperated more fully and closely in the recently initiated follow-up procedure to such visits.

58. The Special Rapporteur wishes to thank the non-governmental organizations for their excellent cooperation and to emphasize their dynamic role in relation to the mandate on religious intolerance. Their contribution is of paramount importance, not only for the day-to-day management of information but also for the preparation and conduct of in situ visits. The Special Rapporteur pays tribute to the professionalism and dedication to human rights shown by non-governmental, international and national organizations from North and South. He also wishes to encourage initiatives which fall entirely within the scope of the mandate on the elimination of all forms of intolerance and of discrimination based on religion or belief, such as the various activities of the Tandem Project, including its ROBIN (Religion or Belief Information Network) programme, 3/ and the European Magazine of Human Rights published by the non-governmental organization Human Rights Without Frontiers as part of the 'Religious intolerance and discrimination' series financed by the PHARE and Tacis Democracy Programme. 4/ Lastly, the Special Rapporteur thanks the Non-Governmental Organization Committee on Human Rights for the interest it has shown, at the United Nations in Geneva and New York, in the mandate on religious intolerance.

59. As a result of the concerted actions of the international community, States and non-governmental organizations, a truly international public opinion is being formed in favour of containing and combating all forms of intolerance and discrimination based on religion or belief.

60. In conclusion, the Special Rapporteur wishes to make it absolutely clear that the resources at his disposal are inadequate for the effective accomplishment of his mandate. At the moment, there is in fact no correlation between what is at stake and the resources available. However legitimate the concerns of the United Nations to cut costs, the Special Rapporteur notes that the drastic limitations on the number of pages in his reports and on his in situ visits, as well as on the human and material assistance available to him, are truly detrimental to his mandate. The Special Rapporteur strongly insists that the resources assigned to his mandate should be increased, and he is quite prepared to accept financial contributions from States, non-governmental organizations and individuals within the framework of a voluntary fund for the mandate on religious intolerance managed in accordance with United Nations rules by the administration of the Centre for Human Rights, along the lines of the fund set up recently for the mandate on the question of violence against women. Any saving made at the expense of human rights at the present time is a lost opportunity for human rights which will translate into less freedom, less tolerance and less humanity.

Notes

1/ Paragraphs 14 and 15 of General Assembly resolution 50/183 read as follows:

> ['The General Assembly]
>
> Invites the Special Rapporteur, within the terms of his mandate and in the context of recommending remedial measures, to take into account the experiences of various States as to which measures are most effective in promoting freedom of religion and belief and countering all forms of intolerance;
>
> Encourages Governments to give serious consideration to inviting the Special Rapporteur to visit their countries so as to enable him to fulfil his mandate even more effectively;'.

2/ For the status of communications since the fifty-first session of the Commission on Human Rights, see E/CN.4/1996/95.

3/ The ROBIN programme is a 24-hour-a-day interactive World Wide Web site on the Internet, using the latest computer technology to collect and report information on issues relating to freedom of religion or belief and public policy.

4/ The PHARE and Tacis Democracy Programme is a European Union initiative to help promote democratic societies in the countries of Central and Eastern Europe and the newly independent States and Mongolia.

ANNEX I

A. FOLLOW-UP TABLE ADDRESSED TO THE CHINESE AUTHORITIES

1. Legislation

Recommendations	Comments and measures
With regard to the right of freedom to manifest one's religion, the Special Rapporteur recommends that amendments be made to the pertinent legal texts, such as article 36 of the Constitution, so as to provide a constitutional guarantee of respect for freedom to manifest one's religion or belief in accordance with article 1, paragraph 1, of the 1981 Declaration.	
With regard to the right of persons under the age of 18 to freedom of belief, the Special Rapporteur recommends that steps be taken to adopt a provision explicitly mentioning this right, so as to ensure the requisite compliance with the Convention on the Rights of the Child, especially article 14.	
The Special Rapporteur recommends the adoption of a text recognizing the right to freedom of belief and freedom to manifest one's belief for all, including members of the Communist Party and other socio-political organizations.	
With reference to places of worship, the Special Rapporteur recommends that the notion of a "fixed place" (para. 2 of decree Number 145) be defined so as to clarify legally the particular terms, conditions and restrictions applying to worship at home. The Special Rapporteur recommends a more precise definition of the criteria for the registration of places of worship, especially the number of believers and the qualifications of members of religious orders.	

Recommendations	Comments and measures
With regard to religious freedom in general, the Special Rapporteur recommends the introduction in the medium term of a law on religious freedom, so as to harmonize all the pertinent legal texts, remedy legal ambiguities and, in keeping with established international standards, overcome the particular fears and sensitivities prompted by the distinction between nationals and foreigners.	

2. Implementation of the legislation and policy in force

Recommendations	Comments and measures
In order gradually to create a new culture among administrative and prison authorities, it is necessary to define the notion of "trespass to the person" expressly as an act committed by a public official, which may be unrelated to the performance of that person's duties or of a public service activity, so that the official has greater personal liability under civil and criminal law for direct and indirect, overt or covert infringements of or interference with religious freedom.	
The flexible approach between normal and abnormal religious activities should be extended so that ultimately the distinction effectively disappears.	
With regard to the alleged arrest or detention of members of religious orders and believers belonging to unofficial religious organizations (including members of sects and Tibetan monks) and restrictions affecting them, the Special Rapporteur reiterates his request that these persons be freed.	

Recommendations	Comments and measures
With regard to Tibet, the Special Rapporteur recommends that the balances and compromises required by social dynamics be reached, so as to avoid the deeply religious being tempted by religious extremism.	
The Special Rapporteur recommends that religious figures who have served their sentences for "counter-revolutionary acts" should no longer be banned from entering places of worship. Furthermore, he recommends that a reasonable balance be worked out between the number of students of religion and the quality, duration and time set aside for their instruction. Likewise, the basically religious function of places of worship and the aim of making them financially independent should be made reasonably compatible.	
The Special Rapporteur wishes to stress the importance of giving State officials and judges adequate human rights training, especially on the subject of religious freedom. He recommends that the technical assistance and advisory services of the Centre for Human Rights should help in this area.	
The Special Rapporteur recommends that the principal texts on religious freedom should be posted in the administrative services concerned. Furthermore, the publication and distribution of a compendium of texts on religious freedom, including implementing instructions, is strongly recommended. The distribution of documentation about human rights to all religious institutions would also be desirable. The Special Rapporteur also recommends that citizens and institutions be informed about appeal procedures available in the event of a refusal to register religious organizations.	

Recommendations	Comments and measures
Education about tolerance and non-discrimination against religion and belief should be considered and introduced as soon as possible, as a way of combating all forms of intolerance and discrimination based on religion and belief. At the same time, the Special Rapporteur urges the creation of universities offering religious instruction as a main or subsidiary subject. More broadly, the Special Rapporteur recommends that a culture of human rights and in particular of tolerance should be spread by promoting the creation of human rights clubs in universities, which would strive chiefly to further the development of tolerance of and non-discrimination against religion and belief.	

B. FOLLOW-UP TABLE ADDRESSED TO THE IRANIAN AUTHORITIES

1. Legislation

Recommendations	Comments and measures
The concept of Islamic criteria as set forth in article 4 of the Constitution should be precisely defined in regulations or legal texts without, however, giving rise to discrimination among citizens.	
Concerning professional access by members of minorities to the army and the judiciary (arts. 104 and 163 of the Constitution), a legislative enactment regulating the Administration in general should prohibit discrimination against any Iranian citizen regardless of, inter alia, his or her beliefs or the community to which he or she belongs.	

Recommendations	Comments and measures
Although the situation of non-recognized minorities or communities, such as the Baha'is, is covered by articles 14, 22 and 23 of the Constitution, in which the concepts of citizen, individual and person are used, a legislative enactment should give clearer recognition to these rights for every citizen, individual or person regardless, inter alia, of his beliefs or the community to which he belongs.	

2. Implementation of the legislation and policy in force

(a) Recognized non-Muslim religious minorities

Recommendations	Comments and measures
In the religious field, and particularly in that of religious education, instruction manuals should be compiled in closer, systematic collaboration with competent representatives of minorities in order to ensure that religious beliefs are correctly transcribed and respected.	
In the socio-cultural field, practical steps should be taken to ensure strict respect for the principle that religious laws should be applied in personal and community affairs, thereby excluding the application of the shariah to non-Muslims.	
In the field of education, and especially in minority schools, the Special Rapporteur recommends freedom of dress on the understanding that this should obviously not be exercised in a manner contrary to its purposes.	

Recommendations	Comments and measures
With regard to managerial posts in the educational establishments of minorities, account should be taken of the special nature of minority schools, which should be reflected in their management.	
Minorities should collaborate closely in the formulation of educational programmes.	
In the professional field, the obligation for owners of grocery shops to indicate their religious affiliation on the front of their shops should be eliminated.	
In the judicial sector, the programme of advisory services of the Centre for Human Rights should be applied. Proper training of judicial and, in general, administrative personnel in human rights, particularly with regard to tolerance and non-discrimination based on religion or belief, would be highly appropriate.	

(b) Baha'is

Recommendations	Comments and measures
The ban on the Baha'i organization should be lifted so that it can engage fully in its religious activities.	
All the community and personal property that has been confiscated should be returned and the places of worship that have been destroyed should be reconstructed, if possible, or, at least, should be the subject of compensatory measures in favour of the Baha'i community.	
The Baha'is should be free to bury and honour their dead.	

Recommendations	Comments and measures
Concerning freedom of movement, including departure from Iranian territory, the question of religion should be deleted from passport application forms and this freedom should not be obstructed in any way.	
No discrimination should impede access by the Baha'is to education in higher educational establishments or to employment in the Administration and in the private sector.	
With regard to the judiciary, the Special Rapporteur reiterates the recommendations formulated concerning recognized minorities.	
The authorities should review or set aside the death sentences passed on Baha'is and should promulgate amnesties or any other appropriate measures to prevent the enforcement of the penalties imposed.	

(c) Protestants

Recommendations	Comments and measures
The legal status of some religious associations, including the Universal Church, should be clarified through rehabilitation.	
The Protestant communities should be able to engage in their religious activities in full freedom, except where restrictions may apply as provided for in internationally recognized standards. To that end, the ban on the Bible Society of Iran and on the Garden of Evangelism should be lifted and freedom to write, print and disseminate religious publications, including the Bible, should be fully respected.	

Recommendations	Comments and measures
On the specific question of places of worship and access thereto, all bans and restrictions should be lifted. The conduct of services and the language used therein should also be left entirely to the discretion of the ministers of religion concerned, who should be able to engage in their religious activities and choose their mode of expression without being subjected to any pressure.	
The conversion of Muslims to another religion should in no way give rise to pressures, bans or restrictions on the Protestant community, on the converts or on ministers of religion.	

C. FOLLOW-UP TABLE ADDRESSED TO THE PAKISTANI AUTHORITIES

1. Legislation

Recommendations	Comments and measures
Blasphemy as an offence against belief may be subject to special legislation. However, such legislation should not be discriminatory and should not give rise to abuse. Nor should it be so vague as to jeopardize human rights, especially those of minorities. If offences against belief are made punishable under ordinary law, then procedural guarantees must be introduced and a balanced attitude must be maintained. While protecting freedom of conscience and freedom of worship is clearly a necessity, applying the death penalty for blasphemy appears disproportionate and even unacceptable. The Special Rapporteur endorses the Government's proposal to amend procedural aspects of the blasphemy law and would encourage it not only to give effect to this proposal, but also to go further in amending the law on blasphemy, and more generally on religious offences, in accordance with the views expressed above. The Special Rapporteur believes that in any event some practical measures, especially administrative and educational ones, should be implemented pending more substantial constitutional and legislative changes.	

Recommendations	Comments and measures
The Special Rapporteur recommends that the authorities should check that Hudood ordinances are compatible with human rights and urges that Hudood penalties, because they are exclusively Muslim, should not be applied to non-Muslims. He also recommends establishing legislation on non-discriminatory evidence and advocates a single electoral system, involving all citizens without distinction, especially distinctions based on religion.	
With regard to proselytism, conversion and apostasy, the Special Rapporteur wishes to draw attention to the need to abide by international standards laid down in the field of human rights, including freedom to change religion and freedom to manifest one's religion or belief, either individually or in community with others, in public or in private, subject only to limitations prescribed by law.	
The Special Rapporteur considers that no mention of religion should be included on passports, on identity cards, on application forms or on any other administrative documents. Deletion of the statement required of Muslims regarding non-recognition of Ahmadis as Muslims in passport application forms is strongly recommended.	

2. Implementation of the legislation and policy in force

Recommendations	Comments and measures
The Special Rapporteur insists that all cases of abuse or rape against girls and women, especially those belonging to minorities, should be duly punished. In this respect, the duty of police authorities to carry out lawful arrests and searches should be recalled and applied in practice. Similarly, police officers should be held personally responsible, under both civil and criminal law, for any arbitrary arrest or detention. An indisputable record must be kept of the day and time of any arrest/ detention and the reason for it, while all legal proceedings and guarantees must be complied with.	
Victims should be duly informed of the proceedings and guarantees provided by law.	
The Special Rapporteur considers that there is an urgent need to inculcate a spirit of tolerance and freedom in order to ensure that rights and liberties are enjoyed by all. The role of the State in this respect is fundamental and inescapable. There can be no real and lasting progress as regards tolerance while the greater part of the population remains illiterate and so long as the school system, the family, the media and religious practices (regardless of persuasion) are not called upon to make a fundamental effort to bring about a change of attitude and to ensure that the culture of tolerance is developed and strengthened. The State could also play a more active role in making public opinion more aware of the culture of tolerance. With the encouragement of the State, mass communication media should help more effectively to combat all forms of intolerance based on religion or belief.	

Recommendations	Comments and measures
The Special Rapporteur considers that it would be appropriate to implement the programme of advisory services of the Centre for Human Rights and recalls the recommendations contained in his 1995 report to the Commission (E/CN.4/1995/91, chap. IV). Suitable training of police and administrative staff in human rights, especially in the field of religious freedom, would be very welcome.	
With regard to religious extremism, in accordance with Commission on Human Rights resolution 1995/23, the Special Rapporteur encourages the Government to restrain it and to take appropriate measures in conformity with the law.	
By adopting and applying appropriate legislation, the State should guarantee the neutrality of places of worship and shelter them from political excesses and ideological and partisan struggles.	
Official educational policy should be set out in appropriate framework legislation aimed at combating illiteracy more effectively and advocating values based on human rights and tolerance, with the purpose of achieving a balanced development of the personality, avoiding the extremes of domination and submission on the one hand and rebellious tendencies on the other.	
The legislation concerning political parties should ensure that long-standing religious values are not interfered with by short-term political interests.	
The Special Rapporteur requests that the authorities in all circumstances ensure the serene operation of justice by protecting the courts from the pressures of demonstrations and crowds.	

ANNEX II

Reply of the Chinese authorities to the follow-up table

The Chinese Government attaches great importance to the work of the Special Rapporteur on the question of religious intolerance. It has made a careful and detailed study of the recommendations which he made after his stay in China. The Chinese Government wishes to reply as follows:

A. Question of legislation

1. Amendment of the constitutional provisions relating to freedom of religion. Article 36 of the Chinese Constitution provides:

> "Citizens of the People's Republic of China shall enjoy freedom of religion and belief. No public body, social group or private individual may compel a citizen to practise or not to practise a religion or discriminate against a citizen who practises or does not practice a religion. The State shall protect normal religious activities. No one may, in practising a religion, engage in activities which endanger public order or the health of citizens or interfere with the system of public education. Religious groups and religious affairs may not be subject to any foreign authority."

The Chinese Government believes that this provision guarantees respect for and the protection of freedom of religion and belief and, in particular, protects the right to profess a religion or belief and to engage in normal religious activities, in keeping with the spirit of article 1 of the United Nations Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

2. Adoption of a legal provision explicitly mentioning the freedom of religion of persons under the age of 18. The provisions of the Chinese Constitution and other legislative texts relating to freedom of religion and belief apply to all Chinese citizens, including persons under the age of 18.

3. Adoption of a law recognizing freedom of religion and belief for all, including members of the Chinese Communist Party. The Chinese Constitution provides that citizens of the People's Republic of China shall enjoy freedom of religion and belief. This freedom encompasses both the right to have a religion and the right not to have one. This basic right, as guaranteed by the Constitution, applies to all Chinese citizens. The Chinese Communist Party is a grouping that professes the theory of materialism. By voluntarily joining the Party, citizens attest that in matters of belief they choose materialism, that is, atheism and not theism. The fact that Communist Party members do not believe in religion does not contradict the principle of freedom of religion and belief. Any member of the Party is free to leave it if he no longer believes in Marxism and starts to practise a religion. State law fully guarantees the right of citizens to choose whether to have a religion or not.

4. Clarification of the definition of "place of worship" as referred to in paragraph 2 of Decree No. 145 of the State Council. Pursuant to the "Places of worship regime", namely, Decree No. 145, promulgated by the State Council in January 1994, the Council's Office of Religious Affairs drew up and issued, in April of that year, procedures for the registration of places of worship that explicitly set out the conditions that places of worship must meet in order to be recognized as such, namely: (a) the place must be a fixed place and have a name; (b) believers must go there frequently to participate in religious activities; (c) believers must have set up a governing body; (d) religious activities must be conducted by members of religious orders or by some other person designated to that end by the rules of the religion in question; (e) the place must be subject to a set of rules; (f) the place must be supported from the proceeds of a legitimate source of income. There are no provisions regarding the number of believers; the members of religious orders or persons who conduct religious activities are chosen by each religious order according to its own rules and customs.

5. Introduction in the near future of a law on freedom of religion in keeping with established international norms. Since 1982, the legislative branch has been planning to introduce a basic law on religions. The views of various interested parties on this point have been sought: religious figures, academics, jurists and the civil service. The Constitution is the fundamental law of China and is the basis for all other laws and regulations. With a view to gradually improving the regime applicable to religious affairs, China is continuing to debate legislative and regulatory texts and to draft them in accordance with its Constitution and in the light of the experience of other countries which have legislation in this area.

B. Implementation of the legislation and policy in force

1. Question of the aggravated personal liability under civil and criminal law of State officials who violate freedom of religion. Article 147 of the Penal Code of the People's Republic of China provides:

> "Any State official who illegally deprives citizens of their legitimate freedom of religion or violates the customs and habits of minority ethnic groups shall be subject, in the case of a serious offence, to a mandatory sentence of imprisonment or penal detention of up to two years."

According to this provision, public officials who violate citizens' freedom of religion are personally liable for the violation.

2. Distinction between "normal" and "abnormal" religious activities. Religious activities corresponding to rites practised either in a place of worship or at the home of a believer, depending on the religious custom, are considered "normal" activities and are accordingly protected by law. The Government believes, however, that normal religious activities should be clearly distinguished from all the superstitious activities that do not constitute a religious activity and that are detrimental to the interests of the State and to the well-being and property of the people, and from illegal activities that conflict with the provisions of the Constitution or the laws in force. The

State protects normal religious activities and prohibits any action which, masquerading as religion, disturbs public order, endangers the health of citizens or interferes with the functioning of the national education system. Persons who commit crimes under cover of religion are subject to investigation and indictment in accordance with the law.

3. Alleged arrests or detention of members of religious orders and believers belonging to unofficial religious organizations. China is a State governed by the rule of law. Chinese law protects freedom of religion and no one may be arrested or detained for his religious beliefs. Believers and non-believers are equal before the law. In the punishment of criminals, Chinese courts act according to the law, whether the persons concerned are believers or not and whether or not they practise a religion of any kind. Believers, including clergy, are punished if they carry on illegal activities that have nothing to do with religion or if they commit crimes under cover of religion. In present-day society, there is no country whose law blindly protects citizens who carry on criminal activities simply on the pretext of practising their religion.

4. Banning religious figures who have served sentences for "counter-revolutionary activities" from entering places of worship. The Chinese Government imposes no restrictions that would have the effect of preventing religious figures from entering places of worship, and it has never prohibited convicts who have served their sentence from entering places of worship. However, some religious organizations, out of concern for their prestige and their reputation, decide that anyone who has been convicted of breaking the law automatically loses his religious status and that the competent religious bodies must review and attest to the fact that he has been rehabilitated after having served his sentence.

As regards the quality of religious education, all religious organizations attach importance to the teaching of religion and to raising the educational level of their followers. All educational institutions with religious affiliations determine the duration of their students' religious studies. This varies from a period of two to three years to a period of four to six years. Short-term training courses are also offered.

5. Posting, publication and distribution of texts on freedom of religion. The Chinese Government attaches great importance to the publicity that must be given to laws, regulations and policies concerning freedom of religion. For instance, the People's Daily, the most widely read daily newspaper in the country, published in extenso the two administrative regulations adopted by the State Council in 1994. The Council's Office of Religious Affairs also published 70,000 copies of the two texts. In collaboration with the review Legal System, the Office also writes a specialized column in the People's Daily and in one year published more than 50 essays familiarizing readers with the regulations and discussing their implementation. The Policies and Regulations Department of the Office of Religious Affairs of the State Council has, with the help of the ministerial services concerned, compiled and published a selection of documents on religion, comprising texts published in earlier years. Throughout the country, local authorities also distribute the texts of laws and policies and publicize legal provisions. The Government intends to continue such activities in order to increase familiarity with the laws and policies in force concerning freedom of religion.

UNITED
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General Assembly

Distr.
GENERAL

A/51/543
23 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda item 33

THE SITUATION IN THE MIDDLE EAST

Report of the Secretary-General

I. INTRODUCTION

1. The present report is submitted in pursuance of General Assembly resolutions 50/22 A and B of 4 December 1995. The General Assembly, in its resolution 50/22 A, which deals with the transfer by some States of their diplomatic missions to Jerusalem in violation of Security Council resolution 478 (1980) of 20 August 1980, called once more upon those States to abide by the provisions of the relevant United Nations resolutions. In resolution 50/22 B, which deals with Israeli policies in the Syrian territory occupied by Israel since 1967, the General Assembly demanded once more that Israel withdraw from all the occupied Syrian Golan in implementation of the relevant Security Council resolutions.

2. The Secretary-General, in order to fulfil his reporting responsibility under the above-mentioned resolutions, on 31 August 1996 addressed notes verbales to the Permanent Representative of Israel and to the Permanent Representatives of the other Member States and requested them to inform him of any steps their Governments had taken or envisaged taking concerning implementation of the relevant provisions of those resolutions. As of 16 October 1996, a reply has been received from Japan. It is reproduced below.

96-28644 (E) 281096 311096

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II. REPLIES FROM MEMBER STATES

Japan

[Original: English]

1. Resolution 50/22 A

Based on its support for related resolutions, Japan supported resolution 50/22 A at the fiftieth session of the General Assembly. It has taken no specific measures to implement its provisions.

2. Resolution 50/22 B

Japan has never recognized the occupation of the Golan Heights by Israel. Desiring the peaceful resolution of that problem, it has encouraged the parties concerned to engage in direct negotiations. To the same end, it has supported the efforts of the United Nations Disengagement Observer Force (UNDOF). Japan has expressed that support on numerous occasions and, beginning in February 1996, it has contributed troops to UNDOF from its Self-Defence Forces.

UNITED NATIONS

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General Assembly

Distr.
GENERAL

A/51/544
23 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda items 7, 10 and 24

NOTIFICATION BY THE SECRETARY-GENERAL UNDER ARTICLE 12, PARAGRAPH 2, OF THE CHARTER OF THE UNITED NATIONS

REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE ORGANIZATION

LAW OF THE SEA

Letter dated 18 October 1996 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I wish to refer to the letter dated 26 August 1996 from the Permanent Representative of Kuwait to the United Nations (A/50/1029), containing the statement of the Government of Kuwait relating to certain provisions of the Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Sea of Oman, 1993 ("Marine Areas Act"), and make the following clarifications:

1. Even before the enactment of the said Act, there existed a few acts and decrees pertaining to the Islamic Republic of Iran's rights and jurisdiction over its maritime areas, each of which dealt with one or more issues involving the law of the sea. The Marine Areas Act was drafted to consolidate and supplement all previous relevant legislative provisions into a single statutory instrument, taking into account the progressive development of the law of the sea, including the extension of the jurisdiction of coastal States.

2. It should be noted that the Islamic Republic of Iran has not as yet ratified the United Nations Convention on the Law of the Sea. Nevertheless, as a signatory State, the Islamic Republic has not defeated the object and purpose of the Convention.

96-28680 (E) 041196

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I should be grateful if you would have the text of the present letter circulated as an official document of the General Assembly, under agenda items 7, 10 and 24.

(Signed) Kamal KHARRAZI
Ambassador
Permanent Representative

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General Assembly

Distr.
GENERAL

A/51/545
23 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda items 7, 10 and 24

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REPORT OF THE SECRETARY-GENERAL ON THE WORK OF THE ORGANIZATION

LAW OF THE SEA

Letter dated 18 October 1996 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I wish to refer to the note verbale dated 25 July 1996 from the Permanent Mission of Saudi Arabia to the United Nations addressed to the Secretariat (A/50/1028, annex), regarding objections of Saudi Arabia to certain provisions of the Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Sea of Oman, 1993 ("Marine Areas Act"), and make the following clarifications:

1. Even before the enactment of the said Act, there existed a few acts and decrees pertaining to the Islamic Republic of Iran's rights and jurisdiction over its maritime areas, each of which dealt with one or more issues involving the law of the sea. The Marine Areas Act was drafted to consolidate and supplement all previous relevant legislative provisions into a single statutory instrument, taking into account the progressive development of the law of the sea, including the extension of the jurisdiction of coastal States.

2. It should be noted that the international law of the sea comprises various rules and provisions that were codified and/or developed in the 1958 and 1982 Conventions on the Law of the Sea. Therefore, it is hard to believe that there is an international consensus on various rules and practices pertaining to this body of law.

3. There is no provision in the Marine Areas Act to impede navigation in the Persian Gulf and the Sea of Oman. The Islamic Republic of Iran does not object

to the freedom of navigation, provided that such freedom is not prejudicial to the peace, good order or security of the coastal States, in conformity with international law.

I should be grateful if you would have the text of the present letter circulated as an official document of the General Assembly, under agenda items 7, 10 and 24.

(Signed) Kamal KHARRAZI
Ambassador
Permanent Representative

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General Assembly

Distr.
GENERAL

A/51/546
23 October 1996

ORIGINAL: ENGLISH

Fifty-first session
Agenda items 24 and 77

LAW OF THE SEA

IMPLEMENTATION OF THE DECLARATION OF THE
INDIAN OCEAN AS A ZONE OF PEACE

Letter dated 18 October 1996 from the Permanent Representative of the Islamic Republic of Iran to the United Nations addressed to the Secretary-General

I wish to refer to the note verbale dated 20 August 1996 from the Permanent Mission of Qatar to the United Nations addressed to the Secretariat (A/50/1034, annex) regarding objections of the State of Qatar to certain provisions of the Act on the Marine Areas of the Islamic Republic of Iran in the Persian Gulf and the Sea of Oman, 1993 ("Marine Areas Act") and make the following clarifications:

1. Even before the enactment of the said Act, there existed a few acts and decrees pertaining to the Islamic Republic of Iran's rights and jurisdiction over its maritime areas, each of which dealt with one or more issues involving the law of the sea. The Marine Areas Act was drafted to consolidate and supplement all previous relevant legislative provisions into a single statutory instrument, taking into account the progressive development of the law of the sea, including the extension of the jurisdiction of coastal States.

2. The Islamic Republic of Iran does not consider that the United Nations Convention on the Law of the Sea (the "Convention") has merely codified customary rules of international law of the sea, as the President of the Third United Nations Conference on the Law of the Sea stated on 10 December 1982:

> "The argument that, except for Part XI, the Convention codifies customary law or reflects existing international practice is factually incorrect and legally insupportable. The regime of transit passage through straits used for international navigation and the regime of archipelagic sea lane's passage are only two examples of the many new concepts in the Convention." 1/

The recent adoption by various States of laws and regulations similar to the Marine Areas Act concerning their rights and jurisdiction in maritime areas that are not fully compatible with the Convention is further evidence that supports this argument.

3. It should be noted that the Islamic Republic of Iran has not as yet ratified the Convention. Nevertheless, as a signatory State, it has not defeated the object and purpose of the Convention.

4. The drawing of straight baselines by the Islamic Republic of Iran should not be considered unusual, as the same method has been used by other States under similar circumstances. Moreover, it was based on several recognized criteria, among them the drawing of a baseline in a way not to depart to any appreciable extent, from the direction of the coast, and also the coastal State's right to consider the economic interests peculiar to the region concerned, the reality and importance of which are clearly evidenced by long usage. Decree No. 2/250-67 dated 31 Tir 1352 (22 July 1973) was approved and entered into force nearly 25 years ago, and was circulated in the United Nations Legislative Series 2/ but so far no objections have been raised by Qatar to the said Decree.

5. As regards waters between islands within a distance of less than 24 nautical miles, we note that there is no rule in international law prohibiting use of that method. Furthermore, the same method was used in the Act on the Territorial Waters and the Contiguous Zone of Iran dated 24 Tir 1313 (15 July 1934) 3/ and the Act amending the Act on the Territorial Waters and the Contiguous Zone of Iran dated 22 Farvardin 1338 (12 April 1959). 4/ In the Marine Areas Act the same method has been employed, while taking into account the extension of the breadth of the territorial sea.

6. With respect to the laying of marine cables and pipelines on the part of the continental shelf belonging to the Islamic Republic of Iran, it should be clarified that there is no customary rule limiting the right of coastal States in this respect. Furthermore, it needs to be emphasized that, in accordance with article 79 (3) of the Convention, the consent of the coastal State is essential for the delineation of the course for the laying of such pipelines on the continental shelf.

7. As for article 16 of the Marine Areas Act, it should be mentioned that it is almost certain that foreign military exercises and manoeuvres impede and/or cause harm to economic activities of coastal States, for which they enjoy sovereign rights. Accordingly, those exercises and manoeuvres that affect the economic activities in the exclusive economic zone and the continental shelf are prohibited.

8. With regard to marine scientific research in the exclusive economic zone, it should be mentioned that any research conducted in that area would be directly linked to the rights of coastal States concerning the exploration and exploitation of living and non-living resources. Therefore, the Islamic Republic of Iran has reserved its right for the adoption and enforcement of appropriate laws and regulations in this respect.

9. As regards article 9 of the Marine Areas Act, the attention of the Permanent Mission of Qatar is drawn to the statement by the Islamic Republic of Iran on signing the Convention, which provides, inter alia:

> "In the light of customary international law, the provisions of article 21, read in association with article 19 (on the Meaning of Innocent Passage) and article 25 (on the Rights of Protection of the Coastal States) recognize (though implicitly) the rights of the Coastal States to take measures to safeguard their security interests including the adoption of laws and regulations regarding, inter alia, the requirements of prior authorization for warships willing to exercise the right of innocent passage through the territorial sea." 5/

I wish to take this opportunity to remind the esteemed Permanent Mission of Qatar that, in accordance with article 20 of the Convention, the "submarines and other underwater vehicles are required to navigate on the surface and to show their flag".

10. Finally, I wish to draw the attention of the Permanent Mission of Qatar to the unique ecological situation of the Persian Gulf. Considering the small area of this enclosed sea, its shallow water and the intensity of the economic activities that take place within that region, especially fishing and hydrocarbon extraction, it is a highly vulnerable zone which has been designated as a "special zone" in 1973/78 International Convention for the Prevention of Pollution from Ships (MARPOL Convention). For these reasons, the requirement of obtaining prior authorization for the passage of some categories of foreign vessels, especially for ships carrying hazardous substances, was incorporated in the Marine Areas Act to employ more supervision over the traffic of such vessels and to protect the marine environment of the region.

I should be grateful if you would have the text of the present letter circulated as an official document of the General Assembly, under agenda items 24 and 77.

(Signed) Kamal KHARRAZI
Ambassador
Permanent Representative

Notes

1/ Official Records of the Third United Nations Conference on the Law of the Sea, vol. XVII, (United Nations publication, Sales No. E.84.V.3), Verbatim records of meetings, 193rd meeting, para. 48.

2/ ST/LEG/SER.B/19, pp. 55-56.

3/ ST/LEG/SER.B/6, p. 24.

4/ ST/LEG/SER.B/15, p. 88.

5/ Law of the Sea Bulletin, No. 5 (July 1985), p. 14.